IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1004 OF 2002

Office notes, office Memoranda of Coram, appearances, Court's orders or directions & Registrar's orders	Court's or Judge's Orders

Shri S.A.Patil for the Petitioner.
Shri Harshad Palwe for the Respondent No.1.
Shri S.S.Tatkare, A.P.P. for the Respondent-State.

CORAM: S.R.Dongaonkar, J.
DATE : 31st March, 2006.
P.C.:

1. Heard the learned counsel for the Parties.

2. **Rule.** Respondent No.1 waives service. Heard forthwith.

3. This Petition is filed by the Petitioner under article 227 of the Constitution of India and under Section 482 of the Criminal Procedure Code for a relief of quashing the order of process issued against the Petitioner in Summary Criminal Case No.7660 of 2001, dated 18th March, 2002 passed by the IIIrd Judicial

Magistrate, First Class, Nashik in a complaint filed by the Respondent No.1 under Section 138 of the Negotiable Instruments Act.

4. It is now settled by this Court that the order of issuance of process passed by the learned Magistrate has to be challenged in the Court of Sessions by way of revision application, in view of the order of this Court, in Criminal Application No.5272 of 2004.

5. The learned counsel for the Petitioner states that in pursuance of the notice of the complainant, he had paid the requisite amount by Demand Draft . He has produced the letter to that effect which is marked as 'X' for Identification.

6. It is also settled that now the order of issuance of process can not be recalled by the same Court. And, therefore, Petitioner, in these circumstances, will have to move to the Sessions Court for quashing the order of issuance of process in the

above circumstances.

7. This position can not be disputed by the learned counsel for the Petitioner. Liberty to the Petitioner of moving necessary revision application before the Sessions Court.

8. It is needless to state that question of limitation will be decided sympathetically by the learned Sessions Judge after the revision application is filed. Interim stay to the Trial Court proceedings for four weeks. With these directions, Petition stands disposed of.

(S.R.Dongaonkar, J.)